

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

BERNARD ROSS HANSEN,

Defendant.

Case No. CR18-0092-RAJ

**ROSS HANSEN'S REPLY IN
SUPPORT OF MOTION TO
CONTINUE SENTENCING**

NOTED ON MOTION CALENDAR:
January 7, 2022

I. INTRODUCTION

Ross Hansen respectfully requests that the Court continue his sentencing both so that he can care for his partner, Diane Erdmann, after her total hip replacement, and also because of the recent surge of COVID-19 cases. As the Court recognized in General Order 16-21, the number of COVID-19 cases in the Western District of Washington "has increased exponentially" over the past month due to the Omicron variant. Given this surge in cases, it would be imprudent to proceed with a sentencing hearing on Friday in which some portion of the "more than 3,000 victims" (by the government's count) might wish to participate, and that will be attended by lawyers, Court personnel, and possibly additional supporters on both sides, not all of whom may be vaccinated.

Proceeding with the hearing on Friday could put any unvaccinated or otherwise at-risk individuals

REPLY IN SUPPORT OF MOTION TO
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1 in danger of contracting the virus and could unnecessarily spread the virus. The Court's General
 2 Order 16-21 specifically encourages parties to consider continuances to avoid these types of
 3 consequences, and Mr. Hansen respectfully submits that such a continuance is warranted here.

4 **II. ADDITIONAL BACKGROUND**

5 This past Thursday, the Court issued General Order 16-21, which recognizes that the
 6 "number of individuals testing positive for COVID-19 has increased exponentially in the Western
 7 District of Washington," with hospitalizations having doubled in King County. As a result, the
 8 Court suspended all civil trials and hearings, ordered that all criminal proceedings before Magistrate
 9 Judges would be conducted remotely, and encouraged parties in criminal matters before District
 10 Judges to consider continuances. General Order 16-21 also limited gallery capacity for any
 11 proceeding to eight individuals unless the Court orders otherwise for good cause.

12 The government in its response did not specifically oppose a continuance pursuant to General
 13 Order 16-21, but instead said that it "defers to the Court as to whether both sentencing hearings are
 14 continued based on this new General Order." Response, Dkt. 421 at 2–3.

15 **III. ARGUMENT**

16 As General Order 16-21 recognizes, COVID-19 is currently surging in the Western District
 17 of Washington, which necessitates modified Court operations to "protect unvaccinated individuals
 18 and to avoid contributing to the spread of the virus." Proceeding with a sentencing hearing on Friday
 19 would undermine those goals.

20 This is a massive case, with "more than 3,000 victims" by the government's count, two co-
 21 defendants, eight defense lawyers, two government lawyers, more than 40 trial witnesses, and many
 22 more supporters and interested parties on both sides. Many of those individuals have a right to
 23 participate in—or may wish to attend—the sentencing hearing in this case, and it is unknown how

1 many of them are unvaccinated or have conditions that make them vulnerable to a serious case of
 2 COVID-19. The best way to ensure that these individuals can safely “participate in the sentencing
 3 process,” *see* Response, Dkt. 421 at 2, is to continue the sentencing date. Not only is gallery capacity
 4 limited to eight under General Order 16-21, but proceeding with a sentencing date on Friday could
 5 result in additional travel and time in indoor public spaces for those who need or wish to attend the
 6 sentencing, putting them at risk unnecessarily and possibly resulting in a spread of the virus. This
 7 is avoidable through a continuance, especially since the Omicron surge is expected to be only
 8 temporary. *See* General Order 16-21 at 1.

9 Mr. Hansen himself has multiple conditions that could put him at risk of a serious case of
 10 COVID-19 should sentencing proceed on Friday, including Type II diabetes and serious
 11 cardiovascular issues. Mr. Hansen is also hoping to consult with a neurologist in February for
 12 suspected Parkinson’s disease, which is another condition that, if he has it, would make him at a
 13 higher risk for serious illness should he contract COVID-19.¹

14 All this, of course, is in addition to Mr. Hansen’s primary basis for requesting a
 15 continuance—his life partner’s need for someone to care for her during and after her total hip
 16 replacement surgeries. The government suggests that Mr. Hansen could pursue a delayed reporting
 17 date instead of a continuance of his sentencing, but, of course, after a sentence has been imposed,
 18 the Court can only *recommend* a reporting date. The Bureau of Prisons makes the ultimate decision.
 19 *See* 18 U.S.C. § 3621. Relying on a later recommended reporting date—rather than the certainty of
 20 a continued sentencing date—would put Ms. Erdmann at risk, as it could mean that she might lose
 21
 22

23 ¹ *See* <https://www.parkinson.org/understanding-parkinsons/covid-19/faq> (“Living with Parkinson’s does not put you at
 24 a higher risk of contracting COVID-19, but it does make it harder for you to recover if you contract it.”).

her caretaker mid-way through her recovery, should the Bureau of Prisons decide not to adopt the Court's recommended reporting date for Mr. Hansen.

IV. CONCLUSION

For the foregoing reasons, the Court should grant Mr. Hansen a continuance of his sentencing until at least March 18, 2022.

DATED this 2nd day of January, 2022.

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